

(Do not write above this line.)

State Bar Court of California Hearing Department Los Angeles		
Counsel For The State Bar Jean Cha Deputy Trial Counsel 1149 S. Hill Street Los Angeles, CA 90015 (213) 765-1000 Bar # 228137	Case Number (s) 06-O-11095-RAH PUBLIC MATTER	(for Court's use) FILED DEC 17 2009 <i>gg</i> STATE BAR COURT CLERK'S OFFICE LOS ANGELES
Counsel For Respondent Michael E. Wine, Esq. 301 N. Lake Ave, Ste 800 Pasadena, CA 91101 (626) 796-6688 Bar # 58657	Submitted to: Assigned Judge STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING ACTUAL SUSPENSION <input type="checkbox"/> PREVIOUS STIPULATION REJECTED	
In the Matter Of: John Yaheng Tu Bar # 146945 A Member of the State Bar of California (Respondent)		

Note: All information required by this form and any additional information which cannot be provided in the space provided, must be set forth in an attachment to this stipulation under specific headings, e.g., "Facts," "Dismissals," "Conclusions of Law," "Supporting Authority," etc.

A. Parties' Acknowledgments:

- (1) Respondent is a member of the State Bar of California, admitted June 11, 1990.
- (2) The parties agree to be bound by the factual stipulations contained herein even if conclusions of law or disposition are rejected or changed by the Supreme Court.
- (3) All investigations or proceedings listed by case number in the caption of this stipulation are entirely resolved by this stipulation and are deemed consolidated. Dismissed charge(s)/count(s) are listed under "Dismissals." The stipulation consists of 15 pages, not including the order.
- (4) A statement of acts or omissions acknowledged by Respondent as cause or causes for discipline is included under "Facts."
- (5) Conclusions of law, drawn from and specifically referring to the facts are also included under "Conclusions of Law".



- (6) The parties must include supporting authority for the recommended level of discipline under the heading "Supporting Authority."
- (7) No more than 30 days prior to the filing of this stipulation, Respondent has been advised in writing of any pending investigation/proceeding not resolved by this stipulation, except for criminal investigations.
- (8) Payment of Disciplinary Costs—Respondent acknowledges the provisions of Bus. & Prof. Code §§6086.10 & 6140.7. (Check one option only):
- ☐ until costs are paid in full, Respondent will remain actually suspended from the practice of law unless relief is obtained per rule 284, Rules of Procedure.
 - ☒ costs to be paid in equal amounts prior to February 1 for the following membership years: Two billing cycles following the effective date of the Supreme Court order.
(hardship, special circumstances or other good cause per rule 284, Rules of Procedure)
 - ☐ costs waived in part as set forth in a separate attachment entitled "Partial Waiver of Costs"
 - ☐ costs entirely waived

B. Aggravating Circumstances [for definition, see Standards for Attorney Sanctions for Professional Misconduct, standard 1.2(b)]. Facts supporting aggravating circumstances are required.

- (1) ☒ **Prior record of discipline** [see standard 1.2(f)]
- (a) ☒ State Bar Court case # of prior case 05-H-03835
 - (b) ☒ Date prior discipline effective February 17, 2007.
 - (c) ☒ Rules of Professional Conduct/ State Bar Act violations: Rule of Professional Conduct 1-110.
 - (d) ☒ Degree of prior discipline One year stayed suspension and One year probation with conditions.
 - (e) ☒ If Respondent has two or more incidents of prior discipline, use space provided below.
- State Bar Court Case # 03-O-01980, effective May 4, 2004, Rule of Professional Conduct 3-110(A) for failure to perform and Rule of Professional Conduct 3-510(A)(2) failure to communicate a written settlement offer, one year private reproof.
- (2) ☐ **Dishonesty:** Respondent's misconduct was surrounded by or followed by bad faith, dishonesty, concealment, overreaching or other violations of the State Bar Act or Rules of Professional Conduct.
- (3) ☐ **Trust Violation:** Trust funds or property were involved and Respondent refused or was unable to account to the client or person who was the object of the misconduct for improper conduct toward said funds or property.
- (4) ☒ **Harm:** Respondent's misconduct harmed significantly a client, the public or the administration of justice. Respondent's misconduct deprived his client of a large sum of funds and involved a large amount of money. Respondent also jeopardized the business investment which was the basis of his client's EB-5 petition. (Std. 1.2(b)(iv).)
- (5) ☐ **Indifference:** Respondent demonstrated indifference toward rectification of or atonement for the consequences of his or her misconduct.

- (6) ☐ **Lack of Cooperation:** Respondent displayed a lack of candor and cooperation to victims of his/her misconduct or to the State Bar during disciplinary investigation or proceedings.
- (7) ☒ **Multiple/Pattern of Misconduct:** Respondent's current misconduct evidences multiple acts of wrongdoing or demonstrates a pattern of misconduct. Respondent's misconduct constituted multiple acts of wrongdoing. (Std. 1.2(b)(ii).)
- (8) ☐ **No aggravating circumstances** are involved.

Additional aggravating circumstances:

C. Mitigating Circumstances [see standard 1.2(e)]. Facts supporting mitigating circumstances are required.

- (1) ☐ **No Prior Discipline:** Respondent has no prior record of discipline over many years of practice coupled with present misconduct which is not deemed serious.
- (2) ☐ **No Harm:** Respondent did not harm the client or person who was the object of the misconduct.
- (3) ☒ **Candor/Cooperation:** Respondent displayed spontaneous candor and cooperation with the victims of his/her misconduct and to the State Bar during disciplinary investigation and proceedings. Respondent has cooperated in these proceedings as well as entered into a stipulation.
- (4) ☒ **Remorse:** Respondent promptly took objective steps spontaneously demonstrating remorse and recognition of the wrongdoing, which steps were designed to timely atone for any consequences of his/her misconduct. Respondent made efforts to make amends with his client.
- (5) ☒ **Restitution:** Respondent paid \$ 120,000 on November 28, 2005 in restitution to his client, Mr. Li without the threat or force of disciplinary, civil or criminal proceedings. In February 2007, Respondent paid an additional \$300,000 in restitution to Mr. Li. Also, Respondent has made amends with Mr. Li.
- (6) ☐ **Delay:** These disciplinary proceedings were excessively delayed. The delay is not attributable to Respondent and the delay prejudiced him/her.
- (7) ☐ **Good Faith:** Respondent acted in good faith.
- (8) ☐ **Emotional/Physical Difficulties:** At the time of the stipulated act or acts of professional misconduct Respondent suffered extreme emotional difficulties or physical disabilities which expert testimony would establish was directly responsible for the misconduct. The difficulties or disabilities were not the product of any illegal conduct by the member, such as illegal drug or substance abuse, and Respondent no longer suffers from such difficulties or disabilities.
- (9) ☐ **Severe Financial Stress:** At the time of the misconduct, Respondent suffered from severe financial stress which resulted from circumstances not reasonably foreseeable or which were beyond his/her control and which were directly responsible for the misconduct.
- (10) ☐ **Family Problems:** At the time of the misconduct, Respondent suffered extreme difficulties in his/her personal life which were other than emotional or physical in nature.
- (11) ☐ **Good Character:** Respondent's good character is attested to by a wide range of references in the legal and general communities who are aware of the full extent of his/her misconduct.

(12) ☐ **Rehabilitation:** Considerable time has passed since the acts of professional misconduct occurred followed by convincing proof of subsequent rehabilitation.

(13) ☐ **No mitigating circumstances** are involved.

Additional mitigating circumstances

D. Discipline:

(1) ☒ **Stayed Suspension:**

(a) ☒ Respondent must be suspended from the practice of law for a period of Three Years.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii) Standards for Attorney Sanctions for Professional Misconduct.
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

(b) ☒ The above-referenced suspension is stayed.

(2) ☒ **Probation:**

Respondent must be placed on probation for a period of Three Years, which will commence upon the effective date of the Supreme Court order in this matter. (See rule 9.18, California Rules of Court)

(3) ☒ **Actual Suspension:**

(a) ☒ Respondent must be actually suspended from the practice of law in the State of California for a period of Eighteen Months.

- i. ☐ and until Respondent shows proof satisfactory to the State Bar Court of rehabilitation and present fitness to practice and present learning and ability in the law pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct
- ii. ☐ and until Respondent pays restitution as set forth in the Financial Conditions form attached to this stipulation.
- iii. ☐ and until Respondent does the following:

E. Additional Conditions of Probation:

(1) ☐ If Respondent is actually suspended for two years or more, he/she must remain actually suspended until he/she proves to the State Bar Court his/her rehabilitation, fitness to practice, and learning and ability in general law, pursuant to standard 1.4(c)(ii), Standards for Attorney Sanctions for Professional Misconduct.

- (2) ☒ During the probation period, Respondent must comply with the provisions of the State Bar Act and Rules of Professional Conduct.
- (3) ☒ Within ten (10) days of any change, Respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California ("Office of Probation"), all changes of information, including current office address and telephone number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code.
- (4) ☒ Within thirty (30) days from the effective date of discipline, Respondent must contact the Office of Probation and schedule a meeting with Respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, Respondent must meet with the probation deputy either in-person or by telephone. During the period of probation, Respondent must promptly meet with the probation deputy as directed and upon request.
- (5) ☒ Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10, and October 10 of the period of probation. Under penalty of perjury, Respondent must state whether Respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against him or her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than 30 days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of probation.

- (6) ☐ Respondent must be assigned a probation monitor. Respondent must promptly review the terms and conditions of probation with the probation monitor to establish a manner and schedule of compliance. During the period of probation, Respondent must furnish to the monitor such reports as may be requested, in addition to the quarterly reports required to be submitted to the Office of Probation. Respondent must cooperate fully with the probation monitor.
- (7) ☒ Subject to assertion of applicable privileges, Respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation and any probation monitor assigned under these conditions which are directed to Respondent personally or in writing relating to whether Respondent is complying or has complied with the probation conditions.
- (8) ☒ Within one (1) year of the effective date of the discipline herein, Respondent must provide to the Office of Probation satisfactory proof of attendance at a session of the Ethics School, and passage of the test given at the end of that session.
- ☐ No Ethics School recommended. Reason: .
- (9) ☐ Respondent must comply with all conditions of probation imposed in the underlying criminal matter and must so declare under penalty of perjury in conjunction with any quarterly report to be filed with the Office of Probation.
- (10) ☒ The following conditions are attached hereto and incorporated:
- | | |
|---|--|
| <input type="checkbox"/> Substance Abuse Conditions | <input checked="" type="checkbox"/> Law Office Management Conditions |
| <input type="checkbox"/> Medical Conditions | <input type="checkbox"/> Financial Conditions |

F. Other Conditions Negotiated by the Parties:

- (1) ☒ **Multistate Professional Responsibility Examination:** Respondent must provide proof of passage of the Multistate Professional Responsibility Examination ("MPRE"), administered by the National

Conference of Bar Examiners, to the Office of Probation during the period of actual suspension or within one year, whichever period is longer. **Failure to pass the MPRE results in actual suspension without further hearing until passage. But see rule 9.10(b), California Rules of Court, and rule 321(a)(1) & (c), Rules of Procedure.**

☐ No MPRE recommended. Reason:

- (2) ☒ **Rule 9.20, California Rules of Court:** Respondent must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 30 and 40 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (3) ☐ **Conditional Rule 9.20, California Rules of Court:** If Respondent remains actually suspended for 90 days or more, he/she must comply with the requirements of rule **9.20**, California Rules of Court, and perform the acts specified in subdivisions (a) and (c) of that rule within 120 and 130 calendar days, respectively, after the effective date of the Supreme Court's Order in this matter.
- (4) ☐ **Credit for Interim Suspension [conviction referral cases only]:** Respondent will be credited for the period of his/her interim suspension toward the stipulated period of actual suspension. Date of commencement of interim suspension:
- (5) ☐ **Other Conditions:**

Attachment language begins here (if any):

**ATTACHMENT TO
STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION**

IN THE MATTER OF: JOHN YAHENG TU, 146945
CASE NUMBER: 06-O-11095-RAH

Respondent admits the facts set forth in the stipulation are true and that he is culpable of violations of the specified statutes and Rules of Professional Conduct.

FACTS

1. Ping Li ("Mr. Li") is a business person from Chengdu City, Sichuan Province of China. Mr. Li and his family desired and intended to apply for permanent residence in the United States of America.

2. En Wei Zhang ("Mr. Zhang"), a friend of Mr. Li, resides in Los Angeles, California. Mr. Zhang referred Mr. Li to Respondent.

3. In May 2003, Mr. Li employed Respondent to obtain permanent residency status in the U.S. for him and for his family. Respondent proposed to Mr. Li that Mr. Li invest in a furniture business that would qualify Mr. Li for residency in the U.S. pursuant to an Employer Based Fifth Preference under the Immigration and Naturalization Act of 1990 (sometimes referred to as "the EB-5 program"), essentially an immigration program for applicants who could show their financial ability to start and maintain a business in the U.S. and employ citizens. Respondent told Mr. Li that he would need to invest \$500,000.00 to start a business in the U.S. to qualify for the immigration program. Mr. Li agreed. It was understood that Mr. Li would be the owner of the business and that Respondent would be responsible for managing the business investment fund.

4. Respondent agreed to manage the funds in anticipation of potential future representation of Mr. Li and Mr. Li's business ventures.

5. Respondent formed a business on behalf of Mr. Li called Amwest Furniture Plus in connection with Mr. Li's immigration matter. On June 23, 2003, the initial incorporation documents were filed with the California Secretary of State for a business named Amwest Furniture Plus.

6. On July 3, 2003, Respondent, as the business manager of Amwest Furniture Plus, opened a business checking account at Bank of America, account number ending in 03002, in the name of Amwest Furniture Plus (the "Bank of America bank account"). Respondent was an authorized signatory on the account.

7. The Bank of America bank account was a business operating account and was not a client trust account. Respondent represented to Mr. Li that the Bank of America bank account had been opened in the name of Amwest Furniture Plus on behalf of Mr. Li. At all times, Respondent had complete control of the Bank of America bank account. At all times, the monthly account statements were sent to Respondent's law office address and he received the statements.

8. On July 14, 2003, Mr. Li wire transferred \$502,000.00 (the investment fund) from his bank account in Hong Kong into the Bank of America bank account for Amwest Furniture Plus.

9. Respondent believed per their conversations and past dealings beginning in 2001, that he would have complete control of the investment fund for the benefit of the furniture business. Respondent did not, however, reduce the transaction to writing, nor did he advise Mr. Li to seek advice of independent counsel.

10. Separately, on July 15, 2003, Mr. Li paid Respondent \$30,000.00 in advanced legal fees for the immigration matter.

11. Mr. Li authorized Respondent to manage the business on his behalf. From September 10, 2003 through July 22, 2004, Respondent wrote 24 checks drawn on the investment fund totaling \$230,433.47 for purposes unrelated to the business or the immigration matter. Although Respondent enjoyed unfettered management power over the investment fund, it was to have been for the sole benefit of the furniture business. Respondent misunderstood whether Mr. Li had agreed to Respondent's use of the funds for purposes unrelated to the business. However, at no time did Mr. Li share Respondent's understanding.

12. Thereafter, all remaining monies in the investment fund (\$502,000, less \$230,433.37) were spent on behalf of Amwest Furniture Plus.

13. At the end of 2004, Mr. Li decided to withdraw the investment fund and requested the return of the remaining fund, if any still remained, from the furniture business. As of the date Mr. Li requested his business be dissolved and his investment fund be returned, Respondent had

not yet reimbursed the investment fund for the funds he had previously advanced to himself as a loan.

14. In January 2005, after Amwest Furniture Plus was dissolved, Mr. Li was entitled to a refund of the entire portion of the \$502,000 investment that had not been used for the benefit of Amwest Furniture Plus.

15. On March 7, 2005, Respondent executed a promissory note, written in Chinese, in which Respondent promised to repay and guarantee a refund of the \$500,000 investment fund less the cost of operating the furniture business to Mr. Li by May 17, 2005. At the time, Respondent represented to Mr. Li that he would be able to make the refund to Mr. Li based on receivables he expected to obtain in unrelated business matters.

16. Respondent failed to refund any money to Mr. Li by May 17, 2005.

17. In November 2005, Mr. Li came to the U.S. for the first time to meet with Respondent in person and demand a refund. Mr. Zhang was also present. On November 28, 2005, Respondent refunded \$120,000.00 of the balance owed from the investment fund to Mr. Li.

18. On November 29, 2005, Respondent and Mr. Li entered into a second written promissory agreement by which Respondent promised to refund to Mr. Li \$435,000.00, representing sums from the investment fund, plus interest, on or before February 15, 2006 by way of installment payments.

19. Respondent failed to make any additional payments to Mr. Li by February 15, 2006.

20. Mr. Li terminated Respondent's employment in January 2006 and hired attorney Minzhi Zhou ("Mr. Zhou") to contact Respondent and attempt to obtain the outstanding balance of the investment fund.

21. Mr. Zhou contacted Respondent by mail and subsequently met with Respondent twice; on January 26, 2006 and February 2, 2006. Throughout 2006, Mr. Zhou continued collection efforts.

22. On February 1, 2007, after a complaint was filed with the State Bar, Respondent paid Mr. Li through Mr. Zhang, a check for \$50,000. On February 12, 2007, Respondent paid Mr. Li through Mr. Zhang, a check for \$250,000.

23. On March 16, 2007, Mr. Li verified his receipt of payments totaling \$420,000.

24. On March 20, 2007, Respondent and Mr. Li entered into a written agreement acknowledging that \$80,000 remained outstanding from the balance of the investment fund, but that such sums would be held in trust by Respondent, who would continue to represent Mr. Li and his family in the immigration matter on a basis other than the EB-5 petition. Mr. Li's immigration matter is still pending.

CONCLUSIONS OF LAW

25. By entering into a business transaction with a client (here, a series of loans), knowingly acquiring a pecuniary interest adverse to a client without complying with these requirements: that the transaction or acquisition and its terms were fair and reasonable to the client; that the transaction or acquisition and its terms were fully disclosed and transmitted in writing to the client in a manner which should reasonably have been understood by the client; that the client was advised in writing that the client may seek the advice of an independent lawyer of the client's choice; that the client was given a reasonable opportunity to seek that advice; and that the client thereafter consented in writing to the terms of the transaction or acquisition, Respondent wilfully violated Rules of Professional Conduct, rule 3-300.

26. By unilaterally authorizing a series of loans from the investment fund that was intended for the sole benefit of Amwest Furniture Plus, Respondent entered into transactions with his client that were not fair and reasonable, transactions that were self-dealing and overreaching. By not advising his client of the risks of such loans or of a real or potential conflict of interest, Respondent breached his fiduciary duties owed to a client. By entering into transactions that were not fair and reasonable, by self dealing and overreaching, and by failing to advise his client of real or potential conflicts, Respondent committed an act or acts involving moral turpitude, dishonesty or corruption, in willful violation of Business and Professions Code, section 6106.

WAIVER OF VARIANCE BETWEEN NOTICE OF DISCIPLINARY CHARGES AND STIPULATED FACTS AND CULPABILITY.

The parties waive any variance between the Notice of Disciplinary Charges filed on November 14, 2008 and the facts and/or conclusions of law contained in this stipulation. Additionally, the parties waive the issuance of an amended Notice of Disciplinary Charges. The parties further waive the right to the filing of a notice of Disciplinary Charges and to a formal hearing on any charge not included in the pending Notice of Disciplinary Charges.

MITIGATION.

Respondent cooperated during the pendency of the instant proceedings by stipulating. He also recognized his wrongdoing and admitted culpability. His candor and cooperation are mitigating factors. (Std. 1.2(e)(v).) Respondent recognizes that he made an error in judgment in the instant matter and has made amends to his client in March 2007.

Evidence of pro bono work and community service is a factor in mitigation. (*Rose v. State Bar* (1989) 49 Cal.3d 646, 667; *In the Matter of Spaith* (Review Dept. 1996) 3 Cal.State Bar Ct. Rptr. 511, 521.) Respondent has spent hundreds of hours assisting church members with their legal matters on a weekly basis at the Great Commission Church in Hacienda Heights for about six years. Respondent volunteers his English-Mandarin Chinese speaking skills to people in his community.

Respondent has fully repaid the loan plus interest and acknowledges his fiduciary obligations to his client which supports Respondent's rehabilitation. (*In the Matter of Taggart* (Review Dept. 2001) 4 Cal. State Bar Ct. Rptr. 302, 312.)

AGGRAVATION.

Respondent's prior record is an aggravating factor. (Std. 1.2(b)(i).) Respondent's prior misconduct occurred during the same timeframe and is slightly diminished as an aggravating factor for this reason. (*Lewis v. State Bar* (1973) 9 Cal.3d 704, 715; *In the Matter of Bach* (Review Dept. 1991) 1 Cal.State Bar Ct. Rptr. 631, 646; *In the Matter of Sklar* (Review Dept. 1993) 2 Cal.State Bar Ct. Rptr. 602; *In the Matter of Miller* (Review Dept. 1990) 1 Cal. State Bar Ct. Rptr. 131, 136 [prior discipline diminished because it occurred during same time period as present misconduct and thus did not provide respondent with an opportunity to "heed the import of that discipline"]; *Shapiro v. State Bar* (1990) 51 Cal.3d 251, 259; *In the Matter of Burckhardt* (Review Dept. 1991) 1 Cal. State Bar Ct. Rptr. 343, 350-351.)

AUTHORITIES.

The purpose of State Bar disciplinary proceedings is not to punish the attorney, but to protect the public, to preserve public confidence in the profession, and to maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111; *Cooper v. State Bar* (1987) 43 Cal.3d 1016, 1025; Std. 1.3.)

Standard 2.8 of the Standards for Attorney Sanctions for Professional Misconduct, Rules Proc. Of State Bar, Title IV, provides that a violation of rule 3-300 shall result in suspension if harm to the client is not minimal. Standard 2.3 provides that a violation of moral turpitude shall result in suspension or disbarment. Here, disbarment is not necessary to serve the purposes of attorney discipline.

In *In the Matter of Peavey* (Review Dept. 2002) 4 Cal. State Bar Ct. Rptr. 483, the attorney received three-years stayed suspension, three-years probation, and two years of actual suspension where the attorney was found culpable of violating rule 3-300, 6106 and 6068(o)(2) in two client matters. Peavey refused to pay restitution in two separate client matters, forced the clients to seek a civil judgment and then by the time of trial had still not paid anything toward the judgments. The attorney in *Peavey* had no prior record of misconduct in 21 years of practice but his misconduct was more egregious than that in the present case. Respondent's circumstances though involving more money are less egregious because he did ultimately make restitution, and managed to salvage what was left of the attorney-client relationship by making amends with Mr. Li and agreeing to represent Mr. Li in his immigration matter by filing a petition on a different basis. Respondent did not make the kinds of misrepresentations that the attorney in *Peavey* made to placate the clients for many years. Furthermore, Respondent's misconduct involved an isolated case whereas the attorney in *Peavey* was not an isolated incident.

Thus, 18-months actual suspension is sufficient to serve the purposes of attorney discipline.

DISMISSALS.

The parties respectfully request the Court dismiss six alleged violations in the interest of justice:

<u>Case No.</u>	<u>Count</u>	<u>Alleged Violation</u>
06-O-11095	Two	Rule 4-100(A), Rules of Professional Conduct
06-O-11095	Three	Rule 4-100(B)(3), Rules of Professional Conduct
06-O-11095	Four	Rule 3-110(A), Rules of Professional Conduct
06-O-11095	Five	Rule 4-100(A), Rules of Professional Conduct
06-O-11095	Six	Rule 3-700(D)(2), Rules of Professional Conduct
06-O-11095	Seven	Section 6068(m), Business and Professions Code

PENDING PROCEEDINGS.

The disclosure date referred to, on page one, paragraph A.(7), was November 30, 2009.

COSTS OF DISCIPLINARY PROCEEDINGS.

Respondent acknowledges that the Office of the Chief Trial Counsel has informed Respondent that as of November 30, 2009, the estimated prosecution costs in this matter are approximately \$4,920.00. Respondent acknowledges that this figure is an estimate only and that it might not include State Bar Court costs that will be included in any final cost assessment (see Bus. & Prof. Code section 6068.10(c)) or taxable costs (see C.C.P. section 1033.5(a)), which will be included in any final cost assessment. Respondent further acknowledges that should this stipulation be rejected or should relief from the stipulation be granted, the costs in this matter may increase due to the cost of further proceedings. It is also noted that if Respondent fails to pay any installment of disciplinary costs within the time provided herein or as may be modified by the State Bar Court pursuant to section 6086.10, subdivision(c), the remaining balance of the costs is due and

payable immediately unless relief has been granted under the Rules of Procedure of the State Bar of California (Rules Proc. of State Bar, rule 286). The payment of costs is enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

STATE BAR ETHICS SCHOOL.

Because Respondent has agreed to attend State Bar Ethics School as part of this stipulation, Respondent will receive Minimum Continuing Legal Education credit upon the satisfactory completion of State Bar Ethics School.

In the Matter of
John Yaheng Tu

Case number(s):
06-O-11095-RAH

A Member of the State Bar

Law Office Management Conditions

- a. ☐ Within days/ months/ years of the effective date of the discipline herein, Respondent must develop a law office management/organization plan, which must be approved by the Office of Probation. This plan must include procedures to (1) send periodic reports to clients; (2) document telephone messages received and sent; (3) maintain files; (4) meet deadlines; (5) withdraw as attorney, whether of record or not, when clients cannot be contacted or located; (6) train and supervise support personnel; and (7) address any subject area or deficiency that caused or contributed to Respondent's misconduct in the current proceeding.
- b. ☒ Within **0** days/**12** months/**0** years of the effective date of the discipline herein, Respondent must submit to the Office of Probation satisfactory evidence of completion of no less than **12** hours of Minimum Continuing Legal Education (MCLE) approved courses in law office management, attorney client relations and/or general legal ethics. This requirement is separate from any MCLE requirement, and Respondent will not receive MCLE credit for attending these courses (Rule 3201, Rules of Procedure of the State Bar.)
- c. ☐ Within 30 days of the effective date of the discipline, Respondent must join the Law Practice Management and Technology Section of the State Bar of California and pay the dues and costs of enrollment for year(s). Respondent must furnish satisfactory evidence of membership in the section to the Office of Probation of the State Bar of California in the first report required.

(Do not write above this line.)

In the Matter of
John Yaheng Tu

Case number(s):
06-O-11095-RAH

SIGNATURE OF THE PARTIES

By their signatures below, the parties and their counsel, as applicable, signify their agreement with each of the recitations and each of the terms and conditions of this Stipulation Re Fact, Conclusions of Law and Disposition.

12-11-09

Date

12/11/09

Date

12/14/09

Date

Respondent's Signature

John Yaheng Tu

Print Name

Respondent's Counsel Signature

Michael E. Wine

Print Name

Deputy Trial Counsel's Signature

Jean Cha

Print Name

(Do not write above this line.)

In the Matter Of
John Yaheng Tu

Case Number(s):
06-O-11095

ORDER

Finding the stipulation to be fair to the parties and that it adequately protects the public,
IT IS ORDERED that the requested dismissal of counts/charges, if any, is GRANTED without
prejudice, and:

- ☒ The stipulated facts and disposition are APPROVED and the DISCIPLINE
RECOMMENDED to the Supreme Court.
- ☐ The stipulated facts and disposition are APPROVED AS MODIFIED as set forth
below, and the DISCIPLINE IS RECOMMENDED to the Supreme Court.
- ☐ All Hearing dates are vacated.

The parties are bound by the stipulation as approved unless: 1) a motion to withdraw or modify
the stipulation, filed within 15 days after service of this order, is granted; or 2) this court modifies
or further modifies the approved stipulation. (See rule 135(b), Rules of Procedure.) **The
effective date of this disposition is the effective date of the Supreme Court order herein,
normally 30 days after file date. (See rule 9.18(a), California Rules of Court.)**

12-16-09
Date


Judge of the State Bar Court

CERTIFICATE OF SERVICE

[Rule 62(b), Rules Proc.; Code Civ. Proc., § 1013a(4)]

I am a Case Administrator of the State Bar Court of California. I am over the age of eighteen and not a party to the within proceeding. Pursuant to standard court practice, in the City and County of Los Angeles, on December 17, 2009, I deposited a true copy of the following document(s):

STIPULATION RE FACTS, CONCLUSIONS OF LAW AND DISPOSITION AND ORDER APPROVING

in a sealed envelope for collection and mailing on that date as follows:

- ☒ by first-class mail, with postage thereon fully prepaid, through the United States Postal Service at Los Angeles, California, addressed as follows:
- MICHAEL E. WINE
301 N LAKE AVE STE 800
PASADENA, CA 91101 - 5113
- ☐ by certified mail, No. , with return receipt requested, through the United States Postal Service at , California, addressed as follows:
- ☐ by overnight mail at , California, addressed as follows:
- ☐ by fax transmission, at fax number . No error was reported by the fax machine that I used.
- ☐ By personal service by leaving the documents in a sealed envelope or package clearly labeled to identify the attorney being served with a receptionist or a person having charge of the attorney's office, addressed as follows:
- ☒ by interoffice mail through a facility regularly maintained by the State Bar of California addressed as follows:

Jean Hee Cha, Enforcement, Los Angeles

I hereby certify that the foregoing is true and correct. Executed in Los Angeles, California, on December 17, 2009.



Cristina Potter
Case Administrator
State Bar Court